

STATE OF FLORIDA
BOARD OF NURSING

FILED

By: _____
Deputy Agency Clerk

2010 DEC 21 A 11:01

DIVISION OF
ADMINISTRATIVE
HEARINGS

DOH CASE NO.: 2009-11401
DOAH CASE NO.: 10-0855PL
LICENSE NO.: CNA 139966

DEPARTMENT OF HEALTH,

Petitioner,

vs.

FEDELINE GEORGES, C.N.A.,

Respondent.

CORRECTED FINAL ORDER

THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on August 4, 2010, in Tampa, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order and Exceptions to the Recommended Order (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner was represented by Thomas Dickens and William Miller, Assistant General Counsels. Respondent was represented by Bradley N. Laurent, Esquire.

Upon review of the Recommended Order, the argument of the parties and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULINGS ON EXCEPTIONS

1. Petitioner's exceptions address the Administrative Law Judge's (ALJ) conclusions of law with regard to the penalty recommended by the ALJ. Petitioner cites the danger to the

public and patients and the extraordinarily vulnerable condition that Patient T.D. was as aggravating factors justifying a stricter penalty than that recommended by the ALJ. Testimony and findings of fact were made by clear and convincing evidence at the formal hearing supporting Petitioner's exceptions and were directly cited in paragraphs 4, 10, 12, and 14 of the recommended order. Petitioner requests that the penalty be increased to permanent revocation.

2. The Board stated that the ALJ determined that the Respondent did, in fact, steal the wallet and should be penalized for theft, the fact of which is supported by admitted evidence consisting of reports of the Lakeland Police Department and Valencia Hills Health and Rehabilitation Center. Furthermore, the patient unequivocally identified the Respondent as the perpetrator.
3. The Board moved for the recommended penalty to be rejected stating on multiple occasions of people who have been found by clear and convincing evidence to have violated the statute and/or rule, as the Respondent was found by the ALJ, the ALJ's suggested penalty is far more lenient than this Board has ever considered before. The Board found that costs and revocation is a much more appropriate penalty for the violation. Petitioner's exceptions are granted.

4. Respondent's exceptions address the ALJ's finding of fact that alleging that clear and convincing evidence was used to prove the facts alleged and those facts do not warrant discipline of the Respondent. Respondent requests that this action be dismissed without punishment. Respondent's exceptions are denied.

FINDINGS OF FACT

5. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
6. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

7. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 464, Florida Statutes.
8. The conclusions of law set forth in the Recommended Order, except that as to the recommended penalty, are approved and adopted and incorporated herein by reference.

DISPOSITION

Upon a complete review of the record in this case, the Board determines that the disposition recommended by the Administrative Law Judge be REJECTED and AMENDED as follows:

IT IS HEREBY ORDERED AND ADJUDGED that

The license of FEDELINE GEORGES is PERMANENTLY REVOKED.

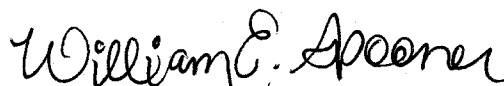
RULING ON MOTION TO ASSESS COSTS

The Board retained jurisdiction to consider the Motion to Assess Costs. The issues regarding costs were presented to the Board at its duly-noticed public meeting on August 5, 2010 in Tampa, Florida. The Board imposes the costs associated with this case in the amount of \$15,703.17. Said costs are to be paid within 60 days from the date this Final Order is filed. Payment shall be made to the Board of Nursing and mailed to, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Nursing Compliance Officer.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 14 day of December, 2010.

BOARD OF NURSING



Joe Baker, Jr.
Executive Director for
Jessie Colin, RN, PhD, Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review, pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Clerk of the Department of

Health, 4052 Bald Cypress Way, Bin C02, Tallahassee, Florida 32399-3252, and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal or the District Court of Appeal in the appellate district where the party resides. The Notice of Appeal must be filed within 30 days of rendition of this Final Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to FEDELINE GEORGES, 517 Montgomery Ave., Lakeland, FL 33801, and Bradley Laurent, Esq., 550 Bumby Ave., Suite 280, Orlando, FL 32803; and by interoffice mail to **Rachel W. Clark**, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; and **William Miller**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 on this 17th day of December, 2010.

Sandra Soto

Deputy Agency Clerk

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PS Form 3800, A1	Sent To	Return Receipt (Endorsement Req)	Postage \$	OFFICIAL	U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only; No Ins)
Street, Apt. No., or PO Box No.	Restricted Delivery (Endorsement Req)	Certified Fee			
City, State, ZIP+4	Total Postage & Fees \$				

7009 3410 0001 4581 1558

PS Form 3800, August 2005	Sent To	Return Receipt Fee (Endorsement Required)	Postage \$	OFFICIAL	U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only; No Ins)
Street, Apt. No., or PO Box No.	Restricted Delivery Fee (Endorsement Required)	Certified Fee			
City, State, ZIP+4	Total Postage & Fees \$				

Final Order No. DOH-10-2112-~~FOF~~-MOA
FILED DATE - 9/7/10
Department of Health
By: Angele Bastin
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2009-11401
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FINAL ORDER

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Upon review of the Recommended Order, the argument of the parties and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULINGS ON EXCEPTIONS

1. Petitioner's exception addresses the Administrative Law Judge's (ALJ) conclusions of law with regard to the penalty recommended by the ALJ. Petitioner request that the penalty

be increased to permanent revocation. Petitioner's exception is denied.

2. Respondent's exception addresses the ALJ's finding of fact that alleging that clear and convincing evidence was used to prove the facts alleged and those facts do not warrant discipline of the Respondent. Respondent requests that this action be dismissed without punishment. Respondent's exception is denied.

FINDINGS OF FACT

3. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
4. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

5. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 464, Florida Statutes.
6. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

DISPOSITION

Upon a complete review of the record in this case, the Board determines that the disposition recommended by the Administrative Law Judge be ACCEPTED. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that

The licensee must pay an administrative fine of \$250.00 within 60 days of the date this Final Order is filed. Payment shall be made to the Board of Nursing and mailed to, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Nursing Compliance Officer.

The license of FEDELINE GEORGES shall be placed on probation for two (2) year(s), subject to the following conditions:

The licensee shall not violate chapters 456 or 464, Florida Statutes, the rules promulgated pursuant thereto, any other state or federal law, rule, or regulation relating to the practice or the ability to practice nursing.

The licensee must report any change in address or telephone number, employment, employer's address or telephone number, or any arrests, in writing within 10 working days to the Nursing Compliance Officer at the Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Nursing Compliance Officer.

Whether employed as a certified nursing assistant or not, the licensee shall submit written reports to the Nursing Compliance Officer which shall contain the licensee's name, license number, and current address; the name, address, and phone number of each current employer; and a statement by the licensee describing his/her employment. This report shall be submitted to the Nursing Compliance Officer every three (3) months in a manner as directed by the Nursing Compliance Officer.

All current and future settings in which the licensee practices nursing shall be promptly informed of the licensee's probationary status. Within five days of the receipt of this Order, the licensee shall furnish a copy to his/her nursing supervisor or supervisors, if there are multiple employers. The supervisors must acknowledge this probation to the Nursing Compliance Officer in writing on employer letterhead within ten days. Should the licensee change employers, he/she must supply a copy of this Order to his/her new nursing supervisor within five days. The new employer shall acknowledge probation in writing on employer letterhead to the Nursing Compliance Officer within ten days. The licensee shall be responsible for assuring that reports from nursing supervisors will be furnished to the Nursing Compliance Officer every three (3) months. That report shall describe the licensee's work assignment, work load, level of performance, and any problems. Any report indicating an unprofessional level of performance shall be a violation of probation.

If the licensee leaves Florida for thirty (30) days or more or ceases to practice nursing in the state, this probation shall be tolled until the licensee returns to the active practice of nursing in Florida. Then the probationary period will resume. Unless this Order states otherwise, any fines imposed or continuing education required must be paid or completed within the time specified and are not tolled by this provision. Employer

reports are not required during the time probation is tolled. Working in nursing without notification to the Board is a violation of this Order.

The licensee's failure to comply with the terms of this Probation Order without the prior written consent of the Board shall be a violation of this Probation. The probation shall not be terminated until the licensee has complied with all terms of probation. The failure to comply with the terms of probation set forth above shall result in a subsequent Uniform Complaint Form being filed by the Board with the Department of Health against the Respondent's license, which may result in additional administrative fines, probationary periods, and/or suspensions being imposed against the Respondent's license. The licensee shall pay all costs necessary to comply with the terms of this Order. Such costs include, but are not limited to, the cost of preparation of investigative and probationary reports detailing the compliance with this probation; the cost of obtaining, and analysis of, any blood or urine specimens submitted pursuant to this Order; and administrative costs directly associated with the licensee's probation.

The terms of this Order are effective as of the date this Order is filed with the clerk for the Department of Health. The Board office will send the licensee information regarding probationary terms, however, failure of the licensee to receive such information DOES NOT EXCUSE COMPLIANCE with the terms of

this Order.

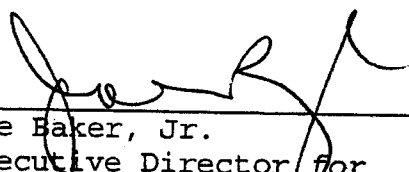
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This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 3rd day of Sept, 2010.

BOARD OF NURSING



Joe Baker, Jr.
Executive Director for
Jessie Colin, RN, PhD, Chair

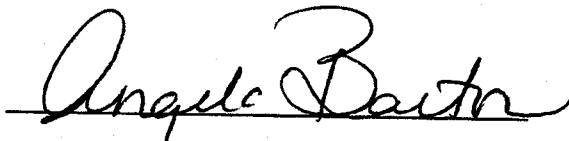
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Deputy Agency Clerk